



Attorney Docket No. P66334US0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Heinrich KOEHNE et al.

Group Art Unit: 1714

Serial No.: 09/744,752

Examiner: Unassigned

Filed: March 23, 2001

For: PROCESS FOR THE UTILIZATION OF A FUEL MAKING USE OF EXOTHERMIC
PREREACTION IN THE FORM OF A COOL FRAME

RESPONSE

Assistant Commissioner of
Patents
Washington, DC 20231

Sir:

Applicant submits the instant Response to the Office action mailed May 4, 2001.

According to the Office action, Applicant's Amendment filed March 23, 2001, does not comply with 37 C.F.R. 1.121(c)(1)(ii). The reason for alleged non-compliance is: "The amendment does not include a marked-up version of the **amended claim(s)**" (**emphasis in original**). Applicant submits that the Office action is an error, in that a "marked-up version" is not required, because the Amendment was filed January 29, 2001, before the Rules requiring a marked-up version became effective.

To the extent the PTO assigned a "filing" date of March 23, 2001, this date is irrelevant. By operation of law, the true filing date of the application is July 29, 1999, the filing date of the international (PCT) application. In accordance with 35 U.S.C. § 363: "An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title" (emphasis added).

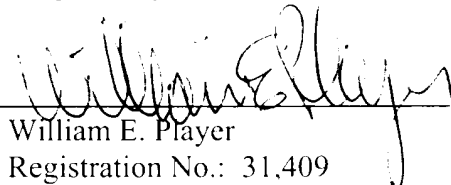
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PTO regulations cannot vitiate a statute. Withdrawal of the requirement for a marked-up version, made in the instant Office action, is in order.

Favorable action is requested.

Respectfully submitted,

By: _____


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